



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING & DEVELOPMENT**

Application Number: 3004453

Applicant Name: Todd Walton for Clearwire LLC Wireless

Address of Proposal: 9015 Holman Road NW

SUMMARY OF PROPOSED ACTION

Master Use Permit to allow a new minor communication utility (Clearwire LLC) consisting of three panel antennas on the roof of an existing apartment building. Existing minor communication utility to remain.

The following Master Use Permit components are required:

Administrative Conditional Use - to allow a minor communication utility in a Lowrise zone that exceeds the height limit (Seattle Municipal Code (SMC) 23.57.011B)

SEPA – Environmental Determination, Seattle Municipal Code (SMC) 25.05.

SEPA DETERMINATION

☐ Exempt ☒ DNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Visit: April 7, 2006

Zoning: Residential Multifamily Lowrise 2 (L-2) / Commercial 1-40 (C1-40)

Site & Vicinity Description

This approximately 46,385 square foot proposal site is a somewhat rectangular lot located at the intersection of Mary Avenue NW to the east and Holman Road NW to the southeast. The site is split-zoned with the southern portion of the lot within an area zoned Commercial 1 with a 40 foot height limit (C1-40). The northern portion of the lot is zoned Multifamily Lowrise 2 (L-2). The site is developed with a five-story apartment building. There is a slight slope down to the western boundary of the lot. There is an existing wireless facility on the rooftop of this building. The site is not located within any mapped critical areas.

Surrounding Uses and Zoning

The C1-40 zoning extends to the northeast and southwest along Holman Road NW. One block to the west is zoned Single Family 7200 and the L-2 zoning extends to the north. The development in the vicinity of the proposal site is mixed and contains single- and multi-family residential and commercial uses.

Proposal Description

The applicant proposes to place three panel antennas on the roof of an existing apartment building. Each of the three antennas will be mounted on the roof and each will be encased in a cylindrical shroud assembly to match the existing building and will be at an approximate height of 58'7". The existing building is approximately 49'3" in height. One equipment cabinet will also be located outside of the building at ground level.

The antennas would be located on the roof of the building, which is not accessible to the building's residents. Signs are posted at the roof access points warning of the presence of radio frequency radiation per FCC guidelines. The existing site is an unmanned facility that requires approximately one maintenance visit per month. No change in the frequency of visits to the site is expected as a result of this proposal.

Public Comment

The initial comment period for the proposed project ended on May 3, 2006 and one comment letter was received.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT

The proposal site is split-zoned and includes Lowrise and Commercial zones. The proposed work in the Lowrise zone requires administrative conditional use permit approval. Minor communication utilities in a Lowrise zone which exceed the height limit may be permitted by Administrative Conditional Use Permit when the proposal meets development standards set forth in SMC 23.57.011 and the following criteria:

1. The minor communication utility shall not result in a commercial intrusion, which would be substantially detrimental to the residential character of the surrounding residentially zoned area.

The minor communication utility is proposed to be located on the rooftop of an existing five-story commercial building that is zoned Commercial and Lowrise. The building façade is over 40 feet high, with the height of the current structure at 49'3". As noted, development in the vicinity is mixed, as is evidenced by the split-zoned proposal site, and uses include both multi-story residential and commercial development. The proposal site is located in a commercial corridor along Holman Road NW, with multifamily zoning adjacent to this corridor. The streetscape in this area is urban in character and is not significantly affected by existing commercial uses.

Each of the three antennas will be mounted on the roof and will be encased in a cylindrical shroud assembly to match the existing building and each will be at an approximate height of 58'7". The existing building is approximately 49'3" in height. One equipment cabinet will also be located outside of the building at ground level. Thus, although the proposed antennas would exceed the height of existing structures on the rooftop, they will be screened. The antennas do not emit smoke, noise, odors, light or glare or create hazardous waste. There would be almost no vehicular traffic associated with the antennas, once installed, which would impact the surrounding neighborhood. Given these conditions, the proposed minor communication utility would be minimally obtrusive and not detrimental to surrounding residential areas.

2. If the minor communication utility is proposed to exceed the zone height limit or is a transmission tower, the applicant shall demonstrate the following:
 - a. The need for the proposed communication utility to be in a residential zone and a justification for the proposed height;

Clearwire LLC provides wireless communication services to customers utilizing Global System for Mobile Communication (GSM) technology. This technology uses call signals that must be transferred or "handed" from one communication utility to another in an unobstructed path as a user moves to ensure a continuous flow of the call signal. Clearwire LLC chose the proposal site as the location for a minor communication utility based on the company's need to provide stronger signal strength in the vicinity of the site. The applicant states that there are no existing structures in the area which would allow equivalent provision of service, and that a network of alternate utilities would be more intrusive. The entire five-story building is used for residential purposes despite the split zones and the two more intrusive panel antennas will be located on the southern portion of the building which is within the commercially zoned area, while the remaining panel antenna is to be located in the northern portion of the site which is residentially zoned (L-2).

The height of the proposed utility is required to provide adequate clearance above obstructions to the signals such as other buildings and to provide a direct signal path to other communication utilities used for Clearwire's GSM system. The additional height above the zone maximum is the minimum required to obtain sufficient coverage.

- b. That the proposed materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;

The three antennas will each be located within a shroud painted to blend with the existing building.

- c. That the proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.

As previously discussed, the proposed minor communication utility will not be substantially detrimental to the streetscape character or residential character of the surrounding neighborhood. No residential dwelling units will be displaced by the proposed project, traffic impacts will be negligible and the antennas will not smoke, noise, odor or light. This criterion is satisfied.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was originally made in the environmental checklist dated March 22, 2006. The information in the checklist, the applicant's statement of compliance with the Federal Communication Commission, supplemental information, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

Many environmental concerns have been addressed in the City's codes and regulations. The SEPA Overview Policy (SMC 25.05.665) discusses the relationship between the City's code and policies and environmental review. The Overview Policy states, in part: "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based upon adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665-D1 to 7. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: a.) decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; b.) increased traffic and demand for parking from construction equipment and personnel; c.) consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration for the installation process. No conditioning of these impacts pursuant to SEPA authority is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The placement of the antennas and installation of equipment cabinets may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences and residences in the subject building. Due to the close proximity of nearby residences, the Department finds that the provisions within the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30am and 6:00pm.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant of sufficient adversity to warrant mitigation. However, due to the widespread public concern expressed about electromagnetic radiation, this impact is further discussed below.

The Federal Communications Commission (FCC) has been given exclusive jurisdiction to regulate wireless facilities based on the effects of electromagnetic radiation emissions. The FCC, the City, and King County have adopted standards addressing maximum permissible exposure (MPE) limits for these facilities to ensure the health and safety of the general public. The Seattle-King County Department of Public Health has reviewed hundreds of these sites and found that the exposures fall well below all maximum permissible exposure (MPE) limits. The Department of Public Health does not believe these utilities to be a threat to public health.

The City is not aware of interference complaints from the operation of other installations from persons operating electronic equipment, including medical devices, e.g., pacemakers. The Land Use Code (SMC 23.57.012-C2) requires that warning signs be posted at every point of access to the antennas noting the presence of electromagnetic radiation. In the event that any signal interference in nearby homes and businesses or in clinical medical applications were to result from this proposal, the FCC has the authority to require the facility to cease operation until the issue is resolved.

This analysis and decision is based upon the information presented above, review of the literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted. Furthermore, the FCC has pre-empted the ability of local jurisdictions to mitigate these facilities based on health effects.

DECISION – SEPA

This decision was made after review of a completed environmental checklist and other information on file by the responsible official on behalf of the lead agency. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of

the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – SEPA

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permits set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekday hours between 7:30am and 6:00pm. This condition may also be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise work exterior to the building after approval from the Land Use Planner.

For the Life of the Project

2. Screening shall be erected for the equipment cabinet and the panel antennas shall be painted to match the building.
3. Maintain signs posted at the roof access points warning of the presence of radio frequency radiation.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a residential zone, which exceeds the height limit of the underlying zone is **CONDITIONALLY APPROVED.**

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

For the Life of the Project

4. Screening shall be erected for the panel antennas and the shrouds shall be painted to match the building.
5. Maintain signs posted at the roof access points warning of the presence of radio frequency radiation.

Signature: (signature on file)
Janet Hyde-Wright, Land Use Planner
Department of Planning and Development

Date: June 29, 2006

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